UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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APPLE INC.,

Petitioner,

v.

RFCYBER CORP.,

Patent Owner.

Patent No. 9,240,009
Filing Date: January 16, 2012
Issue Date: January 19, 2016

Inventors: Liang Seng Koh, Hsin Pan, and Xiangzhen Xie
Title: MOBILE DEVICES FOR COMMERCE OVER
UNSECURED NETWORKS

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PATENT OWNER'S SUR-REPLY

Case No. IPR2022-00413

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I.   INTRODUCTION

Apple Inc. ("Petitioner" or "Apple") has failed to show that claims 1-17 ("challenged claims") of the '009 Patent are invalid and, on Reply, fails to rebut Patent Owner's arguments. The Board should issue a Final Written Decision finding all of the Challenged Claims not unpatentable for the reasons set forth below and in Patent Owner's Response (the "POR").

First, Apple fails to rebut that a POSITA would not have any reason or motivation to combine Dua with GlobalPlatform. Apple does not substantively address its own expert's admissions that he does not have any expertise in network protocols, a central feature of his alleged motivation to combine, that the field of the invention was unpredictable, and that there were no obvious solutions. Nor does Apple identify any deficiencies in Dua, or any benefit that would supply a reason and/or motivation to replace or modify Dua's SIP-based protocols with GlobalPlatform. Instead Apple introduces a supplemental declaration and raises wholesale new arguments alleging that it is (somehow) possible to add GlobalPlatform without entirely replacing SIP entirely. This is inconsistent with Apple's own arguments in the Petition and, in any case, does not cure Apple's failure to provide a justification defeating Dua's aim of leveraging existing channels (such as SIP) by importing GlobalPlatform. Finally, Apple resorts to baseless mudslinging against the qualifications of Patent Owner's expert, Mr. Gomez. But as discussed

below *infra* Section II.A., Apple's arguments are premised on an unduly narrow formulation of the level of ordinary skill in the art and, Mr. Gomez is qualified under both parties' proposals. Apple's combination fails on this basis.

Second, despite raising a slew of new arguments, Apple fails to show that its combination discloses or renders obvious a "secure element," any "server configured to prepare data necessary" for applications or modules to function, or any display with a user interface configured to show "another user interface . . . when each of the modules is activated by a user." Apple's arguments rely on the false premise that its own expert is credible (despite his admissions to the contrary), while the testimony of Patent Owner's expert should be discounted entirely. But as set forth below *infra* Section II, Apple fails to show that any of these limitations are disclosed or rendered obvious, and the Board should further find that the challenged claims are not unpatentable on this basis.

II. ARGUMENT

A. Patent Owner's Proposal for the Ordinary Level of Skill is Correct, and Patent Owner's Expert is Qualified

Patent Owner's proposed level of ordinary skill in the art is correct, and its expert is qualified, irrespective of which proposed level of skill in the art is applied. Petitioner's reply argues from the false premise that Patent Owner's expert is somehow unqualified and repeatedly relies on this assertion. To reach this conclusion, Petitioner (1) wrongly suggests that a POSITA need have direct

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